REPORT OF THE OFFICE OF THE INSURANCE COMMISSIONER TO THE GOVERNOR AND THE LEGISLATURE

IN RESPONSE TO RECOMMENDATION #8 OF THE BLUE RIBBON COMMISSION FINAL REPORT

FEBRUARY 1, 2007

TABLE OF CONTENTS

STATE OF WASHINGTON

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OFFICE OF
INSURANCE COMMISSIONER

M E M O R A N D U M

To: Governor Christine Gregoire
Senator Karen Keiser, Chair, Senate Health and Long-Term Care Committee
Representative Eileen Cody, Chair, House Health Care and Wellness Committee
Blue Ribbon Commission Members

From: Pete Cutler, Deputy Commissioner for Policy

Date: February 1, 2007

Re: Report of the Office of the Insurance Commissioner in Response to Recommendation #8 of the Blue Ribbon Commission Final Report

The Blue Ribbon Commission Report Request

At its November 28th meeting, the Blue Ribbon Commission (BRC) asked the Office of the Insurance Commissioner (OIC) to prepare a report by February 1, 2007, identifying the impacts and likely tradeoffs if state laws were modified to allow health carriers to offer a health plan to individuals and small businesses that was not subject to provider or benefit mandates, and with premiums reflecting the cost of the proposed health plan. The BRC also asked that the OIC report address the idea of offering health plans designed specifically to young adults, or children, or both, with appropriate mandate exemptions, and premiums more closely reflecting the cost of care for this age group.

The specifics of what the BRC members wanted for the February report were not clearly defined at its November 28th meeting. They were discussed among BRC staff, BRC members, and the OIC over several weeks, and were finalized as Recommendation #8 in the BRC Final Report issued in January. (Attachment #1.)

The Report Project Plan

The OIC contracted with Milliman, Inc. to assist with the preparation of the BRC requested report - specifically to gather and summarize the carrier proposals and to facilitate two meetings to discuss the BRC report and an OIC request for carrier proposals.

The OIC anticipated that offering carriers the opportunity to provide specific suggestions without attribution to a specific carrier would likely result in greater participation. Accordingly, the OIC sent a letter on December 19th to carriers asking them to provide to Milliman at least one example of a design that meets the criteria of the draft BRC charge; the estimated premiums for such plan designs under current rating statutes; the estimated premiums for such plan designs under the carrier proposed changes to current rating requirements; and the carrier views of the impacts and likely tradeoffs of the plan designs and proposed rating changes submitted for BRC consideration. (Attachment #2.)

On January 4, 2007, the OIC hosted two meetings in Seattle to talk with carriers about the type of response the BRC was looking for and to get the perspectives of various interested parties. Tim Barclay of Milliman moderated both meetings.

Representatives of several interested groups - consumers, small business organizations, state health purchasing agencies, and providers – met in the morning. At that meeting the OIC solicited their views on mandates and rating requirements, and asked particularly what factors and principles the OIC should consider when evaluating the impacts and tradeoffs of the proposals submitted by the carriers.

In the afternoon, the OIC met with several carriers. The OIC attempted to include out-of-state health carriers, particularly national carriers, in the discussion. This proved difficult because of the tight timeline; however, Physicians Mutual and Assurant were able to participate in the conversation. In addition, Symetra later offered its ideas and suggestions. Unfortunately, PacifiCare/United Healthcare, Aetna and Cigna were not able to take part.

The conversations with the carriers and with the interested parties were wide-ranging, informative, collegial, and evidenced a wide variety of interests and perspectives.

The Report

This report includes the following components:

- Attachment 1 is a copy of the Recommendation #8 from the BRC final report.
- Attachment 2 is the December 19th OIC letter to carriers asking for their proposals.
- Attachment 3, the main body of this Report, is the Milliman summary of the carriers' proposals for variations on current health plan designs and changes to current provider and benefit mandates, and state rating requirements for individual and small group plans.
- Attachment 4 summarizes the issues and points raised during the January 4th meeting of interested parties.

- Attachment 5 is a summary of the NAIC model rating requirements for years 1993 and the current NAIC model, as well as a brief summary of current Washington State rating requirements.

Due to the very tight deadline established by the BRC, this Report provides only the first part of the analysis requested in the BRC Recommendation #8. Because of time constraints, it does not include an evaluation of the carriers' proposals by interested parties and by an independent actuary. Nor does it include the analysis requested by the BRC of the impacts and trade-offs of the proposed provider and benefit mandate and rating requirements changes. The public policy implications of the proposed changes have not been reviewed.

Some carriers generally agreed that they would prefer the state to modify the current community rating requirements. A couple of carriers specifically proposed that the premium range between the youngest age band and the oldest age band be permitted to vary by at least 425%, compared to the current 375% maximum range.

The examples provided by the two carriers indicated that their proposed rating change would permit small decreases in the premiums for young adults, and somewhat larger increases for the oldest age groups. For example, the examples show that under the current modified community rating statutes the premium for a typical small group market plan can range from $218 at the lowest age level, to $816 at the highest age level. The expansion of the permitted premium range to 425% would increase that range to $209 at the lowest level and $888 at the highest level. The potential impacts of such a change on older enrollees are troubling and deserve careful scrutiny.

Out-of state carriers appear to have an interest in entering the Washington market only if they are permitted to use health-status underwriting, can have a medical loss ratio as low as 65%, and are permitted to use other risk-avoidance rating strategies. The OIC is concerned that since five percent of the population generates roughly fifty percent of the costs, new carriers will have an incentive to use rating flexibility to try to enroll those who are likely to generate the lowest claim costs and to avoid covering those who are likely to experience the highest claims. This kind of additional competition in the Washington market would do nothing to improve the availability of health coverage to the older and sicker portions of our population.

In response to the request of the OIC, two carriers proposed changes to or elimination of a number of current provider and benefit mandates. Several of the interested parties suggested reviewing the way some mandates are worded or applied, in lieu of total repeal. The proposals for eliminating or amending mandates deserve careful review and consideration of the likely effects and tradeoffs; this is a review that also could not be completed within the BRC timeline. Any review of this magnitude should include both an independent actuarial evaluation of cost impacts (using Washington claims data) and an assessment of the likely effects on Washingtonians if a particular mandate is repealed or modified.

Conclusion

This report is submitted to the Governor and Legislature in the hope it can contribute to a greater understanding of the specific changes that health carriers would propose be made to state provider and benefits mandates and rating requirements, the kinds of benefit designs carriers might be expected to offer if their recommended changes were made, and the pricing of those plans compared to current pricing.

If you have any questions regarding this report please feel free to contact me at 725-7037.

ATTACHMENTS

Attachment #1: Blue Ribbon Commission "Charge" to the OIC (final version)

RECOMMENDATION #8

Give individuals and families more choice in selecting private insurance plans that work for them.

Washington needs a multi-pronged approach to tackle the challenges facing our uninsured population. Over half of Washington's total uninsured population consists of young adults ages 19-34. Fifty-one percent of the uninsured are adults without children. In addition, 50,000 are employees of small business who have incomes in excess of 200 percent of the federal poverty level. Providing these and other individuals affordable insurance options on the private market will go a long way in decreasing the number of uninsured in our state.

ACTION:

By February 1, 2007, the Office of the Insurance Commissioner, in collaboration with in-state and out-of-state insurance carriers, state health purchasing agencies, consumers, business organizations and others, shall provide a report to the Governor and the Legislature identifying the impacts and likely tradeoffs in terms of cost and coverage if state laws were modified to:

- **Allow health carriers to offer a health plan** to individuals and small businesses not subject to any provider or benefit mandates, with premiums more closely reflecting the cost of providing this particular product;
- **Allow health carriers to offer a health plan** specifically for young adults and/or children, with appropriate mandate exemptions and premiums more closely reflecting the cost of care for this age group;
- **Require health carriers who offer coverage** for dependents to extend the eligibility for that coverage to unmarried children up to age 25, retaining an employer's current option of contributing to the cost of that coverage, or allowing the employee to pay the cost in full.

ACTION:

Direct an independent study of specific mandates, rating requirements, or other statutes or regulations identified by in-state and out-of-state insurance carriers as contributing the most to the cost of individual and small group insurance to determine the impact on premiums and residents' health if those statutes or regulations were amended or repealed.

Attachment #2: Letter from OIC to Carriers

STATE OF WASHINGTON

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

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OFFICE OF
INSURANCE COMMISSIONER

December 19, 2006

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During the last meeting of the Blue Ribbon Commission (BRC) the Office of the Insurance Commissioner (OIC) was asked to prepare a report identifying the impacts and likely tradeoffs, in terms of cost and coverage, if state insurance statutes were modified to:

(a) Allow health carriers to offer a health plan to individuals and small businesses that was not subject to any of the state provider or benefit mandates; and
(b) Also allow health carriers to offer a health plan to an individual that is specifically designed to meet the needs of young adults and/or children, with appropriate mandate exemptions for this segment of the insurance market.

The BRC wants to find out both (1) what benefit designs the carriers might offer, and (2) the estimated premium cost for each of the two above options, based on the identified plan design and the anticipated cost of providing the young adult or child-focused benefit design to the individuals who would be expected to enroll in that plan. Some BRC members also asked that the carriers be permitted to provide premium estimates for the identified plan designs based on their proposed changes to state rating requirements. The BRC requested that the OIC submit this report by February 1, 2007, in collaboration with key interested parties (insurance carriers, the state's health care purchasing agencies, consumers, small business organizations, health care providers, etc.).

This requested report will require a great deal of work by many parties. The OIC must rely on health carriers, and especially those that operate in Washington State, to provide the information needed for the report. We are therefore asking your company, and other carriers, to provide at least one example of a health plan design that meets the criteria listed for paragraph (a) above, and another example that meets the criteria listed for paragraph (b) above, plus the estimated price for the new health plan designs. For comparison purposes, BRC members are interested in knowing the price for the possible new health plans with and without changes to the state's rating laws. They have also requested the carriers to explain the likely tradeoffs, in terms of cost and coverage each of the health plan designs would involve.

So, if your company were free to design the health plan options identified in the BRC request, without considering current state benefit mandates, and if your company could

price that health plan based on its unique design, what might such a plan look like and how much might it cost?

(1) For the purposes of responding to paragraph (a) above, you may assume that the premium rate would be community rated and that the community consists only of enrollees in this new plan design. In your response, please include a description or list of current state mandates that your company would include and exclude as part of your design.

(2) For purposes of the response to paragraph (b) above, you may assume that all young adults will be unmarried. You should choose upper and lower age limits that you believe are appropriate for the "young adult" category – the age group that has been used in some BRC materials is 19-34. And, finally, please include a description or list of current mandates that would be appropriate to eliminate for this age group.

(3) In addition to requesting the analysis described above, the BRC asked OIC to identify the impacts and likely tradeoffs in terms of cost and coverage if the state law was amended to require employers who offer dependent coverage to extend that coverage to all unmarried dependent children up to age 25. The BRC request included the direction that the plan design would include an option for an employer to contribute part or all of the cost of the dependent coverage, or allow the employee to pay the cost in full, at the option of the employer. This issue was raised in legislation in the 2006 legislative session. The OIC would welcome any input the carriers might wish to provide regarding the impacts and likely tradeoffs of this proposal as well.

The BRC and the OIC are not asking carriers to commit to offering the suggested plans and premium levels discussed above, but are asking for your considerable assistance with the development of the analysis requested by the BRC.

In order for OIC to be able to meet the February 1, 2007 report deadline, we asking that you please provide your possible benefit designs, premium estimates, and ideas no later than January 12, 2007.

If you have questions, need more information, or wish to discuss this request, please feel free to contact Melodie Bankers at 360-725-7039, or send an e-mail to her at: melodieb@oic.wa.gov.

PETE CUTLER
Deputy Commissioner for Policy

Attachment – BRC "charge"

cc: Melodie Bankers

The Charge from the Blue Ribbon Commissioner to the OIC

Provide affordable health insurance options for individuals and small businesses.
Washington State needs a multi-pronged approach to tackle the challenges facing our uninsured population. Of the 595,000 uninsured in Washington, approximately 400,000, or sixty-five percent, are in households with incomes below 200% of the federal poverty level and would qualify for existing subsidized programs if funding were available. An additional 50,000 are employees of small business who have incomes in excess of 200% FPL. Over half of Washington's total uninsured population consists of young adults ages 19-34.

The state can adopt several tactics to cover the uninsured including: 1) promoting a marketplace that connects individuals and small businesses to affordable insurance plans; 2) providing coverage to high-cost individuals in an affordable manner; and 3) targeting strategies for our young adult populations. These tactics envision a shared commitment and responsibility to finance insurance coverage from the state, individuals, and businesses. Together, they give the state and insurances carriers the flexibility to provide sound coverage options and create "Healthy Washington" – an initiative that links individuals and small businesses to the health care product that best fits their needs.

Give individuals and families more choice in selecting private insurance plans that work for them.	▪ *By February 1, 2007, the Office of the Insurance Commissioner shall provide a report to the Governor and the Legislature identifying the impacts and likely tradeoffs in terms of cost and coverage if state laws were modified to:* ✓ *Allow health carriers to offer a health plan to individuals and small businesses not subject to any provider or benefit mandates, with premiums more closely reflecting the cost of providing this particular product;* ✓ *Allow health carriers to offer a health plan specifically for young adults and/or children, with appropriate mandate exemptions and premiums more closely reflecting the cost of care for this age group;* ✓ *Require health carriers who offer coverage for dependents to extend the eligibility for that coverage to unmarried children up to age 25, retaining an employer's current option of contributing to the cost of that coverage, or allowing the employee to pay the cost in full;* ✓ *The report will be completed in collaboration with insurance carriers, state health purchasing agencies, consumers, small business organizations and others.* ▪ *Direct a study of a select number of mandates, rating requirements, or other regulations thought to contribute most to the cost of individual and small group insurance to determine the impact on premiums and residents' health if those regulations were amended or repealed.*

Attachment #3: Letter and report from Milliman summarizing carrier proposals

Attachment #4: Summary of Comments from Interested Parties Meeting 1/4/07

- The price point is critical for small businesses. If the goal is to get more people to purchase insurance, rating requirements that end up making the premium so high must be evaluated. The price at which an employee of a small business would be attractive differs; however, any amount above $100/month is difficult.
- More choice in coverage options and prices is essential for small businesses and individuals.
- There is a need for more competition in the marketplace. Three carriers are too few and they are not responsive to the needs of individuals and small businesses.
- The "every category of provider" requirement must be protected. Many consider this to be a mandate; however, it's really anti-discrimination legislation. Mandated health benefits are there for a reason; there are constituencies for each mandate and all have value to some people.
- Small businesses would like the ability to put together programs without all of the mandated benefits and offerings and ask whether there is another way to get to the same goal as in the "every category of provider" law. Some mandates should be reconsidered – they may more appropriately be public health requirements.
- The whole issue of health benefit mandates deserves a long-range impact analysis with an independent actuarial review.
- If the marketplace is carved up into smaller segments, insurance doesn't work well without spreading the risk over a large number of persons.
- The small business rating laws don't work in the HSA marketplace.
- The community rating requirements include four factors that a plan can use to vary its rates. Are these the correct factors?
- Community rating is appropriate social policy.
- There should be a single larger risk pooling arrangement for small groups and individuals.
- Elimination or relaxation of health status underwriting is an issue that should be considered.
- The maximum rate differential in small group should be increased from 375% to 425%.
- Rate increases should be limited to 5% even if a group gets sicker.
- Consumers (small group, employers, and individuals) need information about how to buy insurance. They need to understand what is included in a policy, what's excluded and need to understand how the inside limits work.
- There should be a single, basic product (a benchmark) against which all other health plan options are measured
- Guarantee issue requirements should be moderated or there should be no health status underwriting.
- The state should look at what the State of Wisconsin has done regarding rate banding, health status underwriting and rate compression.
- Financing of small group premiums should require contributions from everyone – employers and employees alike.
- Employees want more in wages rather than more health care coverage, particularly at younger ages. The employee's choice to participate should be considered.
- Evidence-based medicine and pay for performance are important concepts when purchasing for quality, including the right of a purchaser to create "select" provider networks. These must be balanced with other factors.

Attachment #5: Comments Regarding NAIC Model Rating Requirements and Washington State Rating Requirements

A difficulty encountered when reviewing the carrier proposals was the non-specific reference to NAIC model rating requirements. Participants in both the interested parties and carrier meetings suggested that this state adopt something more like the "NAIC model" rate regulation standards. After several hours of research it was determined that the model referred to is the 1993 version of NAIC Model #118: "Small Employer Health Insurance Availability Model Act."

The NAIC Model #118 rating requirement section has been amended several times since 1993. Below are brief summaries of the model requirements in 1993 and the current version. In addition, a very brief summary of the current comparable Washington State rating requirements is included.

In 1993, NAIC Model #118 required that an index rate for any class of business could not exceed 20%. It permitted carriers to use rates that deviated from this index by plus or minus 25% for small employers with similar case characteristics for the same or similar coverage. A carrier could annually increase rates for a small employer group up to a maximum of 15% based upon the claim experience, health status or duration of coverage of the enrollees of the small employer.

The current rating requirements in NAIC Model #118 are based on an adjusted community rating standard. Adjusted rates may vary only for geographic area, family composition, and age. Age brackets may be no smaller than 5 years beginning at age 30 and ending at age 65. Permitted rates for any age group may be no more than 200 percent of the lowest rate for all age groups. Rating factors for identical groups may not differ due to the group's selection of a particular health plan and rating differences must be reflective of plan design or coverage.

Washington's small group standards are similar to the current NAIC model. In addition to the three factors in the Model, in Washington rates may also vary based on wellness activities. Age brackets are the same except that they begin at age 20 (rather than age 30). The permitted rates for any age group may be no more than 375 percent of the lowest rate for all age groups. The medical experience of all small groups must be pooled and annual rate adjustments may vary by plus or minus 4% from the overall adjustment of the carrier's entire small group pool. The overall adjustment must be approved by the Commissioner and must be accompanied by defined actuarial justification.